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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,661	07/25/2003	Hideki Hirayama	1794-0157P	1816
2292 7590 02/23/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER KUNEMUND, ROBERT M	
			ART UNIT	PAPER NUMBER
			1722	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		02/23/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/23/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

## Office Action Summary

Application No.

10/626,661

Applicant(s)

HIRAYAMA ET AL.

Examiner

Robert M. Kunemund

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-10, 12-14 and 17-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 and 10 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-9, 12-14, and 17-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 5, 6, 9 and 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeuchi et al (5,389,571) in view of Nishizawa et al. (5,338,389).

The Takeuchi et al reference teaches a light-emitting device. The device is a layer structure made by deposition techniques. The emitting layer contains a dopant and is a Group III-V compound semiconductor. The device is also an ultraviolet emitter, note, and cols. 5 and 6. The difference between the instant claims and the prior art is the method used to create the device. However, the Nishizawa et al reference teaches the use of pulse chemical vapor deposition. Each element of the semiconductor is feed to the chamber separately and at a predetermined sequence, note, col3. The gases, which are feed, are sources for III, V and dopant elements. The sources can be metal

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organic compounds such as TMGa, TMAI, Cp Mg, note col. 4. It would have been obvious to one of ordinary skill in the art to modify the Takeuchi et al device by the teachings of the Nishizawa et al reference to grow by pulse deposition in order to increase the control over the layer composition and thickness.

Claims 7, 8, and 11 to 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeuchi et al (5,389,571) in view of Nishizawa et al. (5,338,389).

The Takeuchi et al and Nishizawa et al references are relied on for the same reasons as stated, supra, and differ from the instant claims in the second dopant. However, the Nishizawa et al reference teaches the use of two dopants, Mg and Si, note col. 4. The dopant sequence in the process can also be varied. It would have been obvious to one of ordinary skill in the art to modify the Takeuchi et al device by the teachings of the Nishizawa et al reference to use two dopants in order to create the desired properties in the final device layer.

Claims 3 and 10 are allowed.

#### Response to Applicants' Arguments

Applicant's arguments filed November 27, 2007 have been fully considered but they are not persuasive.

Applicant's argument concerning the flow of the gases is noted. However, the claims are directed to a device not the method of making the device. The prior art does in fact show pulsed deposition of the materials to make the device. The prior art also teaches the claimed device and the materials in it. Applicants' have not shown how the

process limitations in the product claims materially effects the product. There is no showing that the device is different and not an obvious modification of prior art devices.

Applicants' argument concerning the dependent claims has been considered and not deemed persuasive. There is no evidence of record to show that the various limitation are not obvious and well within the skill of the art.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

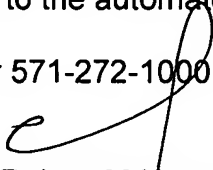
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Kunemund whose telephone number is 571-272-1464. The examiner can normally be reached on 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert M Kunemund  
Primary Examiner  
Art Unit 1722

RMK